RESPONSE TO COMMENTS FOR THE NPDES PERMIT RENEWALS of the INDIANAPOLIS BELMONT AND SOUTHPORT ADVANCED WASTEWATER TREATMENT PLANTS

1st Public Notice November 18, 1997
2nd Public Notice January 11, 1999
3rd Public Notice March 15, 1999
4th Public Notice December 18, 1999

Indiana Department of Environmental Management
Office of Water Quality
September 10, 2001

Response to Comments for the Belmont and Southport Permit Renewals

Over the past few years, the draft permit renewals for the Indianapolis Belmont and Southport Advanced Wastewater Treatment (AWT) plants have been public noticed for comments on several occasions. Several public meetings and public hearings have been held in addition to numerous meetings with the City of Indianapolis, WREP and (to a lesser extent) interested citizens. As a result of these numerous opportunities for comment, there have been many comment letters submitted and oral testimony has been presented at the various public hearings. IDEM staff have reviewed the letters and the hearing transcripts and have compiled the comments which are relevant to the proposed permit actions into this document. Due to the fact that many of the comments were duplicative and/or overlapped, the comments have been sorted into categories and summarized in an attempt to minimize duplicate responses. Because the permit provisions for the Belmont and Southport plants are so similar, the comments and responses for the 2 permits have been combined in this document.

Although IDEM considered all comments submitted and in most cases discussed them with the party who submitted the comments, this Response to Comments only covers comments submitted during an official public comment period or public hearing. However, any comments submitted in writing, whether within an official public comment or not, are public records and may be reviewed at IDEM. Because the City of Indianapolis and the White River Environmental Partnership are co-permittees, IDEM is herein referring to both entities collectively as the "permittee."

I. GENERAL COMMENTS

Comment #1:

For those proposed permit terms and conditions under dispute, the issuance of the NPDES permits should be delayed until current rulemaking on the standards, permit conditions and antidegradation is complete. Limits established based on criteria which could likely change with the triennial rulemaking should be administratively extended rather than be changed at this time.

Response #1:

The NPDES permits for the City of Indianapolis have been administratively extended since August 31, 1990 and it is not known when the referenced triennial review process mentioned will be completed. State and federal law require that IDEM issue the permits consistent with regulations in effect at the time of permit issuance.

Comment #2:

By application of the reasonable potential test, some parameters may be modified or eliminated unless there is scientific evidence to suggest the need to have these constituents controlled to such a low level.

Response #2:

There seems to be some confusion by both the City of Indianapolis and others in their commentaries on the NPDES Permits relating to the application of "reasonable potential." EPA recommends finding that a permittee has reasonable potential to exceed a receiving water quality standard if it cannot be demonstrated with a high confidence level that the upper bound of the lognormal distribution of effluent concentrations is below the receiving water criteria at specified low-flow conditions. Comments received indicated that numerous parameters limited in the permit did not exhibit this reasonable potential, however, the City of Indianapolis originally did not follow the established EPA methodology for determining reasonable potential and as such the requests to delete those parameters was initially denied. After the City submitted additional information, several parameters were removed from the effluent monitoring requirements of the permits.

Comment #3:

Citizens need to be made aware that we have fish advisories. The State has been irresponsible in not having a public education program in this area.

Response #3:

The State has long been concerned with consumption of contaminated fish, and public education has been vested with the Indiana State Department of Health (ISDH). An extensive internet site on this subject maintained by ISDH may be found at www.state.in.us/isdh/dataandstats/fish/fish_adv_index.htm.

Comment #4:

The Department of Natural Resources Guide to Fishing in Marion County states that "reduced water quality may be responsible for the low species diversity" and warns of White River fish consumption advisories. The waterways must be cleaned up now. Indianapolis Greenways and White River State Park planners have altered or delayed recreational use plans that would bring citizens close to contaminated waterways.

Response #4:

Both state and federal law require that all surface waters meet Indiana water quality standards. The greater portion of pollutants that will discharge into the White River from the City of Indianapolis occurs due to discharge**s** from Combined Sewer Overflows (CSOs). The permit prohibits CSO discharges that cause or contribute to the impairment of designated or existing uses or violate the narrative water quality standards. Additionally, the permit requires the City of Indianapolis to develop a plan that will result in compliance with the technology-based and water quality-based requirements of state law and the Clean Water Act (CWA).

Comment #5:

Throughout the Midwest come disturbing reports about fish deformities that are related to water quality and are suspected to have linkages to the presence of endocrine disruptors. The City of Indianapolis must conduct the appropriate and necessary field and biological

studies.

Response #5:

A stream survey for the purpose of a biological evaluation of endocrine disruptors has not been included as a requirement in the NPDES permits for the City of Indianapolis. However, a reopening clause has been incorporated for when an EPA-approved analytical protocol has been developed. The permit may be modified at that time to require such a study.

Comment #6:

The permit should contain a requirement that the permittees in conjunction with other appropriate agencies and "stakeholders" develop a water supply management plan for the White River to ensure adequate flows during dry weather in order to minimize the potential for upset conditions.

Response #6:

One of the primary functions of the NPDES permit is to place end-of-pipe limitations on the amount of pollutants that can be discharged from a point source so that aquatic life in the receiving stream and human health are protected. While low flow during dry weather may constitute a form of water pollution under IC 13-11-2-260, IDEM does not believe the NPDES permit is the proper vehicle by which to require the permittee and other entities to develop a water supply management plan. It is to the permittee's benefit to independently develop such a plan, however, because the low flow may increase the impact of the discharge in the river. This, in turn, could result in a larger penalty being assessed against the permittee in an enforcement action as well as larger natural resource damages.

Comment #7:

IDEM should require the permittee by December 1, 1998 to develop an alternate sludge disposal strategy and plan.

Response #7:

A requirement to develop an alternate sludge disposal strategy to Part II.B.4, "Removed Substances", cannot be granted. There is nothing in current rule that allows EPA or IDEM to mandate how the City of Indianapolis chooses to dispose of its sludge so long as it complies with the requirements in 40 CFR Part 503 and other relevant law.

Comment #8:

What is the definition of "representative" as it is used in the permit? There should be some statistical term used in connection with the sample.

Response #8:

A "representative sample" is defined by U.S. EPA as a portion of material or water that is as nearly identical in content and consistency as possible to that in the larger body of

material or water being sampled. This definition is found in the EPA publication Terms of Environment: Glossary, Abbreviations, and Acronyms, Document # EPA 175-B-94-015.

Comment #9:

There is no mention of sediment testing from the White River and its tributaries. There should be a requirement for biomonitoring including macroinverterbrate studies of the White River down stream from the outfalls from both treatment plants. The study area should extend south at least to the Marion County line.

Response #9:

327 IAC 5-2-11.1(f)(1)(B) only requires the implementation of sediment analysis when appropriate. This is a case by case determination based on best professional judgement (BPJ). As of this time, IDEM does not believe such testing is necessary.

"Biomonitoring" is a broad term encompassing a wide range of testing protocols, not all of which may be suitable to a particular discharger. Currently IDEM limits Biomonitoring to Whole Effluent Toxicity Testing (WETT). WETT is designed to protect the receiving water quality from the aggregate toxic effect of a mixture of pollutants in the effluent and is useful for complex effluents where it may be infeasible to identify and regulate all toxic pollutants in the discharge; it also allows the permit to be protective of the narrative "no toxics in toxic amounts" criterion that is applicable to all waters of the United States. WETT can also can be used to implement numeric criteria for toxicity. Macroinvertebrate studies, on the other hand, do not always assess critical river flows, can be very difficult to interpret, cannot always identify the cause of the impact and cannot differentiate between the sources. While recognizing this information can be useful, IDEM is not requiring it at this time.

Comment #10:

Samples should be taken at equally spaced intervals over the 24-hour period, not at intervals over a 24-hour period when an operator is present.

Response #10:

The permit prescribes how a sample is to be composited. That sampling is already specified as being taken over equal time intervals. The City of Indianapolis utilizes automatic samplers, thus, the presence of the operator around the clock is not deemed necessary for the purpose of sampling.

Comment #11:

In reference to sampling from industries, sampling shall be conducted on a day when industrial discharges are occurring at normal levels. What is "normal" and how is it determined? Since there may be significant seasonal variations in industrial activity, sampling should be done more than once per year.

Response #11:

The reference to the Organic Pollutant Monitoring requirement for the sampling and analysis of influent and effluent contained in the permit has been clarified to reflect sampling of industrial discharges at normal *production* levels. The reference to industrial discharges occurring at normal production levels is meant to prevent sampling at such a time when discharges from most industries are known to have minimized their industrial activities, such as on a national holiday, when a specific industry has been shut down for retooling, or late at night when industrial activity precludes the assumption of peak discharge flows.

With the vagarious nature of time of travel in the collection system coupled with industrial discharge to the collection system in batch amounts at varying times during the day and/or week, it is difficult to write a permit condition specifying an exact time of sampling, thus, the Pretreatment Coordinator for the City of Indianapolis will generally determine the sampling time. The City must collect samples that are representative of the industrial discharges. At present, IDEM believes that additional sampling of this nature will not increase the likelihood of locating additional parameters of concern in significant amounts.

Comment #12:

The recording of sampling results in the permits have a gap in the chain of custody. All persons who handle the sample should have to sign the custody log as it is written.

Response #12:

The recording of sampling results is standard permit language that is consistent in all NPDES permits based on 327 IAC 5-2-14. In addition, all NPDES permittees are required to develop and implement a Quality Assurance and Quality Control (QA/QC) program for their sampling and analytical programs. The QA/QC program requires that there be appropriate records of the sampling and analytical results. These records would include a complete chain of custody for the transfer of samples prior to analysis.

Comment #13:

The storage temperature of whole effluent toxicity test (WETT) samples should be specified, not just the storage time. In addition, the maximum compliance time that is allowed to reduce toxicity should be no more than 24 months. Specific acceptable statistical methods should also be specified.

Response #13:

Decreasing the maximum time allowed to reduce toxicity from three (3) years to two (2) years lacks any type of documented basis to support such a request. Without a valid justification for such changes, IDEM will not grant permit conditions that are different, nor treat the City of Indianapolis in a different manner, from any other municipality. Data analysis is covered in referenced EPA documents; there is no justifiable need to reiterate large segments of statistical approaches covered in technical support documents.

Comment #14:

What is the definition of "significant danger" to human health as contained in the permit? Who will determine what "significant" is? This can be interpreted by many people in many different ways.

Response #14:

The reference to "significant danger" as contained in Part II.C.3.b, is not defined in either 327 IAC 2 or 5. Thus, it can be best summed up by the definitions in Webster's dictionary. "Significant" is defined as having or likely to have influence or effect. "Danger" is defined as exposure or liability to injury, pain, harm, or loss. "Significant danger" is thus the condition of likelihood of injury, pain, harm or loss.

Comment #15:

IDEM should consider allowing the use of an alternate mercury method known as EPA Method 245 for mercury analysis.

Response #15:

EPA Method 245 been supplanted by EPA method 1631 and is no longer approved for use to sample for mercury in the final effluent. Method 1631 has a much greater sensitivity and can accurately quantify mercury at lower levels than Method 245. However, IDEM is allowing the permittee to use Method 245 for the Pollutant Loading Study.

Comment #16:

Use representative sampling for the mercury Pollutant Loading Study (PLS) and extend the submittal date for the mercury portion of the PLS.

Response #16:

The permit requires the permittee to identify sources of mercury and include sampling locations of representative sources of mercury. The permittee must submit a proposed mercury sampling and analysis plan to IDEM for approval. The plan must include both AWT plants and the collection systems for both. The final report is due 2 years after the effective date of the permit renewal.

Comment #17:

The whole effluent testing (WETT) schedule should have the starting date extended to 180 days after the permit's effective date and the language should be revised to "initiate" rather than "conduct" the series of WETT.

Response #17:

The request has been granted, and the permit has been modified.

Comment #18:

The City of Indianapolis has requested that the draft reopening clause concerning monitoring of endocrine disruptors be revised to read as it did in the March 1999 draft.

Response #18:

The specific language was modified after the March 1999 draft based on outside comment. The specific concern revolves around the amount of time that may pass before approved EPA chemical testing, screening, and risk assessment protocol is developed for endocrine disruption. No further changes have been made to the permit language.

Comment #19:

The "boilerplate" language pertaining to the alternative power supply should be deleted from the permit. This provision cannot be practicably met with respect to the AWT plants. Alternatively, the City has also requested the inclusion of language in the permit to acknowledge the fact that both of the AWT plants have dual power supplies.

Response #19:

Part II.A of the permits issued to the City in 1985 contained similar permit requirements pertaining to power failures. Given the recent occurrences of power outages at the Belmont AWT, the State feels justified in maintaining this requirement. The fact that both AWT plants have dual power supplies has been acknowledged in the fact sheets for both of the permits.

Comment #20:

IDEM has proposed significant changes in response to an EPA objection regarding the 1998 proposed permits without any substantial basis for making those changes. Under EPA's regulations (40 CFR 123.44), an interested party is entitled to request a public hearing within 90 days of EPA's issuance of an objection. By holding its objection in abeyance, EPA improperly has foreclosed the City of Indianapolis and other interested parties from requesting that a public hearing be held on the EPA objection. EPA and IDEM must resolve this issue before proceeding to act on the 1998 and 1999 proposed permits.

Response #20:

In its letter of February 25, 1999, EPA provided two grounds for its objection to IDEM's issuance of the NPDES permit for the Belmont AWT facility. EPA has withdrawn objection #1, discharge authorization at Outfall 007, as explained in its letter of March 26, 1999. EPA has not withdrawn objection #2, water quality-based requirements for combined sewer overflow discharges, so that objection remains in effect. There are federal regulations that pertain to EPA review of, and objections to, state permits. IDEM does not have authority to remedy any objection stakeholders may have with respect to EPA's implementation of its own regulations or any failure on the part of the City of Indianapolis to request a public hearing.

Comment #21:

Reduced monitoring frequency for $CBOD_5$, TSS and ammonia parameters should be granted based on U.S. EPA ("EPA") guidance on monitoring frequency. EPA's guidance criteria and an analysis of the available and applicable plant frequency monitoring data

support that a monitoring frequency of 4 times per week would be sufficient for the following parameters: $CBOD_5$, TSS, and ammonia.

Response #21:

The Interim Guidance for Performance-based Reductions of NPDES Permit Monitoring Frequencies is just that, an interim guidance. This policy has not been finalized by EPA nor adopted by the IDEM, Office of Water Quality as of yet, thus, any change in monitoring frequency is currently based on a Best Professional Judgment (BPJ) determination.

Comment #22:

All parameters not included in the effluent monitoring and limitations should likewise be removed from the influent monitoring program. Only monitoring for chloride, fluoride, sulfate and TDS should be required.

Response #22:

Influent monitoring is considered an essential part of an efficient pretreatment program. In order to facilitate industrial compliance monitoring, a first line of defense to a pass through situation is influent monitoring. In addition, no specific rationale has been given as to why the City of Indianapolis and WREP should not continue with influent monitoring.

Comment #23:

Part II.A.6.b of the permit should be changed to read as follows: “Obtaining this permit by intentional misrepresentation or intentional failure to disclose fully all relevant facts.....”

Response #23:

The request to change the standard wording cannot be granted. The Indiana statute, IC 13-15-7-1, does not require that the misrepresentation or the failure to disclose be intentional.

Comment #24:

The Belmont AWT facility is a Class IV, 125 MGD facility and not a 120 MGD facility as described in the proposed permit.

Response #24:

The request to reclassify the Belmont AWT to a 125 MGD, Class IV facility from a Class IV, 120 MGD facility cannot be granted. The current rating of 120 MGD is derived from the May 27, 1977 project design summary. If the City questions that this is the true capacity, it may request a review of that capacity. Please be advised that the Facility Construction Section will only revisit and correct and/or change an issued design summary if the city can prove that the stated capacity was incorrectly calculated by IDEM in the 1977 review of plans and specifications. Further questions regarding the procedure to request a new review should be directed to Mr. Kenneth Lee, Facility Construction

Section at 317/232-8660.

Comment #25:

The proposed permit includes language which refers to the acid soluble and total recoverable test methods. IDEM's prescription of a requirement for which no analytical test method is currently available is arbitrary and capricious. IDEM may cure this untenable legal position, however, by removing such language and replacing it with test methods reflective of IDEM's current position as presented in the triennial water quality standards review documents.

Response #25:

All requests to have the permit language referring to the acid soluble and total recoverable test methods removed and replaced with test methods reflective of IDEM's current position as presented in the triennial water quality standards review documents cannot be granted. The requirement to measure and report certain parameters as the total recoverable fraction is contained in the rules at 327 IAC 5-2-11.1(d) and 327 IAC 2-1-6(a)(3). Specific language in the permit relating to these rule cites cannot be modified ahead of anticipated and/or proposed changes to any rules.

Comment #26:

Footnotes for cyanide do not have any methodology for handling less than values when calculating monthly means.

Response #26:

IDEM understands that data collected during any one month can contain values that are lower than limits deemed reliable enough to report as numerical values (i.e., quantitation levels). These data points are often reported as nondetected and are referred to as censored. The level of censoring is based on the confidence with which the analytical signal can be discerned from the noise.

The methodology for handling less than detect values has been changed due to recently promulgated changes 327 IAC 5-2-15(e)(2) & (3) which has deleted reference to statistical methods such as log-probit analysis, "minitab", or "SAS" software for reporting less than detect values. 327 IAC 5-2-15(e)(2), as modified, now reads: "effluent concentrations greater than or equal to the LOD shall be reported at the measured value. Effluent concentrations greater than or equal to the LOD and less than the limit of quantification (LOQ) that are reported on a DMR shall be annotated on the DMR to indicate the value is not quantifiable."

327 IAC 5-2-15(e)(3) now reads: "except as provided in section 11.6(h)(3) of this rule, when individual daily values are averaged for the purpose of determining the weekly average or monthly averages, values less than the LOQ shall be accommodated in calculation of the averages using statistical methods that have been approved by the commissioner." The currently recommended method is the Virginia Procedure. Each

value in the data set with a value less than the detection level (non-detect) shall be assigned a value (V). The value (V) is determined as follows:

$$V = (\text{LOD}) \times \left(1 - \frac{\text{Number of nondetects}}{\text{Total number of values}}\right)$$

U.S. EPA guidelines states when the percentage of nondetects is less than 15% of the total data set, than a simple substitution method such as the Virginia Procedure is acceptable. When the percentage of nondetects is greater than 15 %, then other statistical methods may need to be employed. For data sets containing more than 15% nondetects, it would be advisable for the City of Indianapolis to consult with a statistician for advice on choosing a method to calculate a monthly average.

Comment #27:

The sampling and analysis of sludge under Part I.A.3.b.2 should be amended to read as follows: “Sampling collection, storage, and analysis shall conform to the U.S. EPA recommended procedures equivalent to methods 624, 625, and 608 in 40 CFR Part 136 or applicable methods in SW 846.....”

Response #27:

The U.S. EPA Solid Waste analytical test methods publication, "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," commonly referred to as SW-846, has been included.

Comment #28:

The reference in Part II.B.2.b. should be changed to read as severe property damage.

Response #28:

The reference has been corrected.

Comment #29:

The word “plant” in Part II.B.2.g. should be changed to “system.”

Response #29:

The reference has been amended to include the word “system.”

Comment #30:

The spill reporting requirement contained in Part II.C.9 needs to have the reference of “Part II.B.2.f” changed to “Part II.B.2.g”in the fifth line of the second paragraph.

Response #30:

The reference to authorized discharges has been amended.

Comment #31:

Due to the volume of data collected for the annual pretreatment program report, including industrial reports with a significant reporting lag time, it would be extremely difficult to meet the February 28 deadline for submission. The City requests that the report submittal date be changed to April 1.

Response #31:

The reference has been amended as requested.

Comment #32:

The City has previously conducted a pollutant loading study and continuously monitors pollutant sources through its approved Industrial Pretreatment Program. The requirement should be limited to arsenic, cadmium, mercury, nickel, zinc, fluoride, chloride, sulfate, and TDS but only for specific purpose of confirming that interim and/or final limits are not required to be included in the permit.

Response #32:

The request to limit the Pollutant Loading Study to the above referenced parameters is approved, however, limiting the new study for the express purpose of confirming the need for interim and/or final limits is not approved. Reasonable potential to demonstrate an excursion above ambient criteria must be in accordance with the procedure outlined in EPA Document 505/2-90-001, Technical Support Document for Water Quality-based Toxics Control.

II CSO AND BYPASS-RELATED COMMENTS

Comment #33:

A. Discharges from Outfall 007 are not bypasses and bypass approval is not required. Limiting the influent flow to the secondary treatment units to the peak flow rate does not constitute bypassing. The regulations under 327 IAC 5-2-8(11) which define bypassing as the intentional diversion of a waste stream from any portion of a treatment facility has meaning only if the treatment facility is designed for, and capable of accepting the waste stream.

B. The PE bypass (Outfall 007) prohibition should be revised to incorporate the provisions of SEA 431. SEA 431 contemplates that Outfall 007 is a wet weather outfall.

C. Even assuming the discharge of excess wet weather flows from Outfall 007 is a bypass under NPDES regulations, approval of the discharges as anticipated bypasses should be granted.

D. To the extent necessary under 327 IAC 5-2-8(11)(D), the City requests approval of anticipated bypasses of excess wet weather flows from Outfall 007 at the Belmont AWT. The circumstances under which such bypasses are anticipated and for which approval is requested are when the effluent flow rate from the primary treatment units exceeds 6.25

million gallons per hour (equivalent to 150 MGD), the peak design flow capacity of the secondary treatment units, as a result of wet weather conditions in the service area of the City's combined sewer system. The excess primary effluent wastewater bypassed from Outfall 007 under these circumstances are referred to as "Excess Wet Weather Flows."

This issue will be addressed in greater detail in the Long Term Control Plan ("LTCP") being developed by the City under the National CSO Control Policy with respect to the issue of maximizing treatment of wet weather flow at the existing treatment facilities.

This request for approval of anticipated wet weather bypasses is in advance of any such bypasses that will occur after issuance of the permit. The request thus meets the notification requirements of 327 IAC 5-2-8(11).

E. Maximizing treatment of wet weather flows through the plants provides better overall environmental protection.

Response #33:

According to the objection letter from U.S. EPA, Region 5 dated February 25, 1999, Outfall 007 *is* a bypass. Under EPA and IDEM regulations, the intentional diversion of a waste stream from any portion of a treatment facility, including secondary treatment, is a bypass. In fact, EPA specifically objected to the draft NPDES permit renewal which was public noticed on January 11, 1999, because the permit contained proposed language to approve the anticipated bypasses of excess wet weather flows from Outfall 007 at the Belmont AWT. Therefore, approval of anticipated bypasses from Outfall 007 cannot be granted in the NPDES permit at this time.

327 IAC 5-2-8(11)(c)(i) and (ii) allow for submitting notice of bypassing events under two conditions, anticipated and unanticipated. However, 327 IAC 5-2-8(11)(D)(ii) allows the Commissioner to approve an anticipated bypass only if the three (3) criteria as defined in the rule are met. The NPDES permit cannot grant authorization for the use of Outfall 007, even as an anticipated bypass, until such time as the permittees submit an approvable no feasible alternative demonstration to IDEM.

SEA 431 does not contemplate that Outfall 007 is a wet weather outfall.

Comment #34 (Public Education/Notification Comments):

A. The permit has no requirement that the public be informed of CSO overflows and the dangers to their health. The signs required by the State are of little use in the protection of small children. A continuing public education program is needed. The inclusion of inserts with water bills will not solve the problem.

B. It is senseless to build trails, bridges, parks and attractions along streams when the water is too filthy to be entered. Warning signs are erected and subsequently ignored. People continue to fish in polluted waters even when aware of the threat. A man who had

gastrointestinal cancer twice fished from the Washington Street Bridge on a daily basis and consumed the catch. Dozens of people also go fishing on the river daily to supplement their dinner table; most are in the path of virulent CSOs.

C. IDEM must be willing to put enough teeth into the regulations to make things happen. IDEM will get much more support if it addresses the CSO issue from a public education perspective vital enough to make people care to support needed improvements and communicate that desire to their elected officials.

D. The permit should contain provisions for an adequate warning and education program to alert the public to the health dangers associated with combined sewer overflows and the recreational use of streams/parks and greenways.

Response #34:

Part V.A of Attachment A of the NPDES permit renewal for the Belmont AWT requires the permittee to provide public notice to ensure the public receives adequate notification of CSO occurrences and CSO impacts. This requirement was not previously contained in the permittee's permit, but will be an enforceable requirement once this permit becomes effective. This provision will require the permittee to go beyond posting signs at CSO outfalls. It is IDEM's understanding that the permittee is considering a number of options for providing public notification of CSOs; we recommend that interested persons contact the City for more information about how it plans to meet this requirement.

Additionally, Section 23 of SEA 431 requires that the Water Pollution Control Board adopt a rule, establishing requirements for community notification by NPDES permit holders of the potential health impact of CSOs whenever information from any reliable source indicates that a discharge or discharges from one or more CSO points is occurring or there is a reasonable likelihood that a discharge or discharges from one or more CSO points will occur within the next twenty-four hours.

Comment #35:

Control of solid and floatable materials in CSOs is desirable. However, this improves the aesthetics but does nothing to significantly reduce microbiological contamination. In fact removal of floatables may give the public a false sense of security since the gross evidence of fecal contamination is no longer visible. The City claims that passage through a net reduces CSO events. This is hardly the case. Passage through a net only reduces the more gross visible contaminants.

Response #35:

Parts I.B. and I.C. of Attachment A contain provisions that encompass discharges of fecal material and bacteriological contamination.

Comment Summary #36 (Comments Regarding Ignoring/Delays Addressing CSO Problems)

A. CSOs are potentially a significant public health problem. Raw sewage is overflowing into Pogues Run and Fall Creek causing frequent exceedences of water quality standards. Children regularly play in these streams. These overflows might be expected in some third world country but not in Indianapolis, the state capitol. The CSO problem has been known for more than 15 years and the City has done nothing to solve it, claiming it was too expensive. Further delay should not be tolerated.

B. The Department of Natural Resources Guide to Fishing in Marion County states that "reduced water quality may be responsible for the low species diversity" and warns of White River fish consumption advisories. We must clean up our waterways now.

C. We are investing millions in a greenway system along 14 corridors in Marion County. Most of them are waterways that are polluted to varying degrees.

D. We stall in fixing our CSOs because the City won't do it unless they are forced. It's the State's job to make it necessary to solve this problem that will never just go away.

E. The "Heartlander Journal" reports that as little as 1/4" of rain produces overflow events from the Belmont combined sewer system. There are too many sewage spills into our waterways. The NPDES permit is not strong enough.

F. In Part VI. A. of Attachment A of the permit, add "The permittee shall complete construction and/or implementation of remediation such that during the high exposure season of May through September (when low stream flows may occur) that during low intensity rain events (up to 0.5 inches of rain or less) all CSO discharges shall be eliminated by May 1, 2000 from all tributary streams."

G. The collection system and treatment system have not kept pace with the increase of sewage in the past and there is a backlog of needed repairs and improvements. While Indianapolis is now engaged in making improvements to the system, improvements are not being made aggressively enough to catch up with this ever increasing load.

H. Attachment A is inadequate to effectively meet the goals that have been set out in IDEM's CSO strategy that was adopted in May of 1996. In order to be effective, the permit needs enforceable and timely requirements that assure that by the year 2005 the City of Indianapolis will take adequate measures to eliminate discharges from the combined sewer overflows that violate Indiana's water quality standards and the Clean Water Act.

I. The Indianapolis NPDES permit does not require the City to immediately devote significant resources to preventing raw sewage from flowing into our creeks, streams and rivers.

J. Attachment A on this NPDES permit allows the City to continue to ignore the CSO overflows while favoring construction for sports projects and deferring the CSO problem

to future administrations while water quality worsens and the White River and its tributaries are ignored.

K. In accordance with federal EPA clean water standards, the City should not be allowed to discharge any materials into the river which would adversely affect its habitat, plant, animal or fish life.

Response #36:

IDEM agrees that CSOs can be a significant public health problem. The NPDES permit renewal for the Belmont AWT will contain a number of new, enforceable provisions that regulate CSOs. These include the narrative water quality standards that apply to the CSO discharges, the narrative condition prohibiting CSO discharges that cause or contribute to the impairment of designated or existing uses and the requirement to develop a long term control plan within 120 days of the effective date of this permit that will lead to compliance with water quality standards. Because the permit does not authorize the City to violate water quality standards, IDEM expects the City to take these provisions seriously and commit significant resources to correcting the problem. Having said that, it is probably not realistic to expect that the City will be able to fully achieve compliance with all water quality standards by 2005 (the goal IDEM had previously set for meeting water quality standards in all streams).

The City has developed a proposed long term control plan, which IDEM and EPA are in the process of reviewing. The plan sets forth the actions that the City intends to take on the tributaries to the White River (as well as the White River) and the time frames in which it intends to take them. IDEM will not require the City to take any action on the tributaries in addition to what is already required in the permit until the plan has been fully reviewed. Interested parties may either view the plan on the City's web page or contact IDEM and request to review the plan. Interested parties should also be aware that a recently enacted state law (SEA 431, codified at IC 13-18-3-2.5) allows permittees with CSO discharges to apply for a suspension (which is similar to a variance) from the water quality standards, provided certain conditions are met, including obtaining EPA approval. If those conditions are met, then the CSO discharges would not be considered in violation of the water quality standards.

With respect to maintenance, IDEM recently issued a $38 million loan to the City from the state revolving loan program to cover maintenance costs.

Comment Summary #37 (Sensitive Areas Comments):

A. Bean Creek is contaminated with *E. coli* far in excess of the state standard of 235 count per 100 ml.

B. Pogues Run is heavily contaminated with bacteria. Citizens have expressed concern over having frolicked with their pets in or around the river. This is a health hazard for the community.

C. The State's plans need to be revised, to redirect the focus to examine when and where CSOs occur (sensitive areas).

D. We have long advocated fixing our deplorable CSO problems. The White River State Park last year made some major land use changes take place that cost a great deal of money and that allow people to come into close contact with the contaminated White River. For example, the new amphitheater is only yards away from at least one major CSO point.

E. In the Technical Memorandum, CSO Pollutant Load Analysis, January 1998 there is data that show more than 50% of the total BOD is discharged from ten CSO outfalls. The same is true for TSS with one exception. Four of the top ten discharge points are relief points along the White River. Four of the largest BOD outfalls and five of the largest TSS outfalls discharge into Fall Creek. All of these outfalls are located in low income residential areas. During the summer the smell of sewage can be detected while driving through this area on Fall Creek Parkway, a major city thoroughfare. The City should be mandated to develop a plan to reduce the discharges from these ten outfalls to acceptable levels within 180 days after the permit is issued. Indianapolis should be allowed two years to implement the plan with date-certain benchmarks set to assure the work is done within the prescribed time period.

Response #37:

Indianapolis will be required to consider any "sensitive areas" located within the receiving waters. "Sensitive areas" are defined by the federal CSO Policy as including designated Outstanding National Resource waters, National Marine Sanctuaries, waters with threatened or endangered species and their habitat, waters with primary contact recreation, public drinking water intakes and their designated protection areas, and shellfish beds. Indianapolis' LTCP process will need to identify these areas, and make their protection a primary focus. Specifically, in such areas, Indianapolis should prohibit new or increased overflows; eliminate or relocate existing overflows whenever possible, and when not possible, implement all measures necessary to meet water quality standards.

Comment Summary #38 (Accelerated Schedules Comments):

A. There must be some mechanism in the permit to assure that the City addresses the long standing combined sewer problem in an expeditious manner.

B. There needs to be dates, certain benchmarks set for implementation of the nine minimum controls in all related plans and projects. The City has sufficient information to begin controlling CSO discharges. Allowing more years for planning is not in the public interest.

C. Attachment A requires further monitoring and study before a LTCP is due. Since much monitoring has been ongoing, the LTCP should be accelerated, not postponed for several more years. IDEM should amend the Indianapolis permit to require a shorter time line for submission of the LTCP.

D. Unless the Operational Plan is incorporated as an enforceable part of the NPDES permit,

the nine minimum controls will not be part of the permit as required by the EPA. It would be much better if the nine minimum controls were specifically included in the permit along with a time schedule for the completion of the various projects. The current permit has been expired for years. The state has the authority to require the City to undertake measures to solve the long-standing CSO problems without waiting for the filing of a LTCP.

E. The LTCP is due 12 months after submittal of the SRCER. We believe the intent here was to require the LTCP 12 months following the date on which the SRCER was required to be submitted. We recommend that this small clarification be made to the permit language. Alternatively, (and preferentially) we recommend that fixed dates be included here, and elsewhere in the CSO schedule where possible.

F. A long-term CSO control plan is required within 12 months after submittal of a stream reach characterization and evaluation report (SRCER). The SRCER itself is due 18 months after approval of a SRCER protocol, submittal of which is required within 6 months after the date of permit issuance. Without allowing for the time required for IDEM review and approval of the protocol, the long term control plan will be developed within 3 years at the earliest. Given the time needed to review and approve the protocol and the CSO long term control plan, and the desire to implement the results of the approved LTCP in the next permit cycle, we urge you to consider shortening the time frames in the CSO schedule. We believe this could be done by taking into account the activities the City has already undertaken to plan for long-term CSO controls.

Response #38:

These comments are remedied within the issued permit. The renewal permit for the Belmont AWT plant contains accelerated schedules for the implementation of the CSO program. The Stream Reach Characterization and Evaluation Report was submitted to IDEM on September 1, 2000. The renewal permit requires the submittal of results from studies, not necessarily more studies. The renewal permit requires the LTCP for Indianapolis to be submitted within 120 days from its effective date. The City submitted a long term control plan on April 30, 2001, which IDEM and EPA are in the process of reviewing.

Attachment A, Part V, of the renewal permit clearly states that the City's approved Operational Plan and any subsequent revisions approved by IDEM are incorporated into the permit by reference and are enforceable terms of the permit. Attachment A, Part V, of the renewal permit requires the permittee to comply with the listed minimum controls; it also requires the permittee to document its plan to comply with the minimum controls in the Operational Plan. The City is required to maintain a current CSOOP, updated to reflect system modifications. Any significant changes to the approved CSOOP must be approved by the OWQ.

Comments Concerning CSO Language That is Not Detailed & Difficult To Enforce

Comment #39:

There is widespread evidence that fecal contamination is occurring in the White River and tributaries of the river in Marion County. Bacterial counts in the tributaries run orders of magnitude above the state limit. The requirements in Attachment A Parts III (SRCER), IV, V, and VI address some of the problems but there is no enforcement mechanism to assure that the required studies and planning are carried out.

Response #39:

All of the requirements contained in Parts III (SRCER), IV (Sewer Use Ordinance Review / Revision), V (Implementation of CSO Operational Plan and 8 Minimum Controls) and VI (LTCP) are enforceable conditions of the permit..

Comment Summary #40:

A. Attachment A is too vague. It should be written to specifically address the unique conditions in Indianapolis.

B. IDEM should consider the impact to the receiving waters at low flow conditions when designing the Indianapolis permit.

C. IDEM should consider continued growth and addition of thousands of septic users to the system when designing the Indianapolis permit.

D. The permit as drafted is unenforceable because it does not have date specific deadlines or schedules by when things must be completed.

E. This permit should include language setting measurable standards and timelines for developing a permanent solution to the CSO problem.

F. The permit requires a LTCP. Where is the implementation plan for the LTCP?

Response #40:

The language in Attachment A is general in order to allow each permittee to determine how best it can meet water quality standards and other requirements of the law. However, the permittee is required to develop a long term control plan that is consistent with the federal Combined Sewer Overflow Control Policy and the federal Combined Sewer Overflows Guidance for Long Term Control Plans and that leads to compliance with state water quality standards. SEA 431 (codified at IC 13-11-2-120.5) requires CSO communities to take expected and projected future growth into consideration when developing their LTCPs. This would also need to be factored into the CSO Operational Plan.

IDEM does consider low flow conditions when setting numeric effluent limitations, but does not need to in order to include narrative limitations. However, the impact of CSOs at low flow conditions will be considered by IDEM when evaluating the City's LTCP.

It is not clear what the person who made this comment meant by the word "system" when referring to the "addition of thousands of septic users to the *system*." If the person was referring to the possible connection to the sewer system of homes currently using septic systems, then that will be something the City will need to factor in when it evaluates alternatives under its LTCP. If the person was referring to the White River as a system, then that is something IDEM will do as part of the TMDL process.

With the exception of implementation of the LTCP, IDEM believes the permit contains timelines and requirements that are specific enough to be enforceable. With respect to implementation of the LTCP, IDEM anticipates modifying the permit to incorporate the elements of the LTCP that are approved by IDEM (which will include a timeline for implementation of the plan).

Public Participation Comments

Comment #41:

We have some concerns that the permit doesn't allow for meaningful input from the public into the final design and implementation of the long term control plan.

Response #41:

The NPDES permit renewal establishes the requirement for the City to submit a LTCP & outlines the requirements of the LTCP. Public Participation is a component of the LTCP development. In developing the LTCP, Indianapolis should have simultaneously carried out an extensive public participation process. This process requires public involvement at all stages of the Plan development. It should have included public meetings and the use of various media to inform the public about the LTCP process, and to solicit the public's opinions on proposed approaches and alternatives. IDEM will review the public participation process the City used to develop its LTCP as IDEM reviews the plan which the City submitted.

Comment #42:

We understand from our discussions with IDEM that there's a possibility of a consent decree to follow the issuance of this permit with the purpose of this action to assist the City in designing a long term control plan that would extend beyond the five-year limitation of this permit. We are concerned that such administrative actions do not require citizen participation.

Response #42:

The potential contents of a judicial consent decree are beyond the scope of this permit proceeding. However, the permit requires the long term control plan to be developed with public participation.

Non-Point Sources Comments:

Comment Summary #43:

A. The permit still makes little mention of the City evaluating urban runoff pollution control. IDEM has said this will be covered more thoroughly in the next five-year permit which we hope won't take 8 years to issue also. IDEM is ignoring the issues of citizens for both the Indianapolis permits and those of other municipalities.

B. We are disappointed that the current draft permits call only for a study and report regarding non-point source pollution. How much more study do we need? It's time to take action.

Response #43:

The permit indirectly deals with urban runoff in several ways. First, SEA 431 requires CSO communities to provide for the capture of first flush for treatment. This requirement will have a significant benefit regarding the capture and treatment of pollution from non-point and urban runoff sources into the combined sewer system. SEA 431 defines "first flush" as the transport of solids in a combined sewer system that have settled in pipes during periods between wet weather events and those that have washed off of impermeable surfaces such as streets and parking lots during the beginning of a wet weather event. Therefore, in accordance with SEA 431 non-point source pollution from urban runoff must be addressed within the LTCP. The renewal permit requires the LTCP for Indianapolis to be submitted within 120 days from the effective date of the renewed permit.

Second, the permit requires the permittee to conduct a pollutant loading study for several pollutants (mercury, cyanide, chloride, fluoride, sulfate and total dissolved solids). The purpose of this study is to determine the total pollutant loading entering the plant and sewer system. One of the sources of pollutants that must be considered is nonpoint runoff. The results of this study may lead to the City installing nonpoint source controls. However, an NPDES permit for a wastewater treatment plant is generally not the vehicle for requiring installation of comprehensive nonpoint source controls or a comprehensive study of nonpoint sources and impacts to the river. It is appropriate to do so, however, to evaluate nonpoint source impacts to the POTWs and sewer systems. It may also be necessary to require more comprehensive studies as IDEM progresses on developing a TMDL for affected waters within the City's jurisdiction.

Third, the City of Indianapolis has a separate NPDES permit (INS000001) for discharges of storm water from its municipal separate storm sewer system.

CSOOP Comments

Comment #44:

When will the City's CSO Operational Plan be approved and what is the approval process? Will there be public input?

Response #44:

The Indianapolis CSO Operational Plan was approved by IDEM on September 26, 1997.

IDEM has added a provision in the permit that requires the City to submit an update of the plan within 90 days of the permit renewal's effective date. The renewal permit requires the continuous implementation and updating of the Operational Plan. Any significant changes to the plan must be submitted to IDEM for approval. Although there is no public participation component in the development or approval of the plan, the plan and any changes to it are public record. Additionally, IDEM is willing to discuss the plan and proposed changes to it with the public upon request.

Comment #45:

Is the CSO Operational Plan available for public inspection anywhere?

Response #45:

Yes, the CSO Operational Plan is a public document and is on file in the IDEM Central File Room which is located on the 12th floor of the Indiana Government Center North.

Comment #46:

There is no plan for maximizing the storage capacity of the sewer system nor is one required in the draft permit. A pilot project for the installation of an inflatable dam and a controllable gate is in progress as stated in the CSO Plan. Inflatable dams and similar devices are established technology and pilot projects are not needed to establish effectiveness. Indianapolis should be required to implement expeditiously a program to maximize collection system storage capacity.

Response #46:

Attachment A, Part V of the NPDES permit requires the permittee to maximize the storage capacity of the sewer system as one of the 8 minimum controls. This requirement is effective immediately. The Indianapolis CSO Operational Plan did discuss a pilot project for the installation of an inflatable dam and controllable gate to maximize collection system capacity. A pilot study is not necessary to examine the effectiveness of the technology, but is necessary to examine what effects the technology has on the collection system. Improperly designed dams could cause surcharging which could lead to collection system damage and/or damage to residential property.

Comment #47:

Some work is underway to maximize flow to the treatment plants but since there is no master plan to address the collection system and the treatment plants in a coordinated manner, it is impossible to determine what effect this work will have on the total system.

Response #47:

Maximization of flow to the treatment plant is an element of the approved Operational Plan for Indianapolis. Additionally, Attachment A, Part V.B of the issued permit requires the permittee to maximize flows transported to the Belmont AWT and Southport AWT for treatment. The renewal permit requires the submittal of the LTCP, which will serve as a master plan, comprehensively addressing CSO controls throughout the Indianapolis collection

system.

Comment Summary #48:

A. There are no specific requirements in the permit for proper operation and maintenance of the sewer system. These requirements need to be specifically stated and there needs to be an enforcement mechanism.

B. The City of Indianapolis's Operational Plan contains numerous "outs" for the City that would make the Plan unenforceable.

C. The draft NPDES permits for the Indianapolis Belmont wastewater treatment plants are deficient in many of the nine minimum controls listed in the EPA Combined Sewer Overflow (CSO) Control Policy. The CSO Operational Plan submitted by the City, referred to in the renewal permit, is filled with inaccurate information on various plans and projects that have been modified or have not occurred as planned.

Response #48:

Part V of Attachment A requires the permittee to properly operate and maintain the sewer system. The City is required to detail how it will do so in its CSO Operation Plan, which is an enforceable part of its permit. The Plan was submitted in December, 1995 and approved by IDEM in September, 1997. The permit contains a specific requirement for them to update its Plan to reflect any changes in procedures, projects or construction within 90 days of the permit's effective date.

Attachment A of the NPDES renewal permit for Indianapolis (Belmont) includes each of the nine minimum controls listed in EPA's Combined Sewer Overflow (CSO) Control Policy. These minimum controls are also documented within the City's approved Operational Plan. All CSO Operational Plans are dynamic documents which must be continuously updated to reflect the system modifications. The NPDES permit renewal requires the City to maintain an updated Plan. The Office of Water Quality's Inspection Section, along with assistance from CSO Program Staff, will oversee the implementation of the Operational Plan through CSO inspections. If implementation of work schedules do not proceed in accordance with the approved Plan, appropriate enforcement action will be taken.

Comment #49:

This Plan should not be accepted unless it is rewritten and includes the required public participation.

Response #49:

A CSO Operational Plan is developed to document a permittee's implementation of the nine minimum controls found in Indiana's Final CSO Strategy. Public participation is not one of these minimum controls. Although public participation is desired in the development of the CSO Operational Plan, it is not a requirement that the public be involved in the

implementation of the nine minimum controls.

Comment #50:

Part V.A of Attachment A of the draft permit should be revised to show that the City of Indianapolis responded to IDEM's request for information.

Response #50:

Part V of the Attachment A within the issued permit has been updated to reflect the status of the Indianapolis CSO Operational Plan.

Comment #51:

In Part V.C of Attachment A of the draft permit, replace "1 year" with "4 months" and add "The permittee's Operational Plan is deemed to be part of this permit and is enforceable under this permit."

Response #51:

This comment has been satisfied within the issued permit. In addition, the permittee's operational plan is deemed to be part of this permit and is enforceable under this permit.

Monitoring

Comment #52:

The CSO monitoring language should be changed in its entirety and reflect the appropriateness and scientific reasonableness of the City using its modeling program for submitting CSO frequency and duration reports on an annual reporting basis.

Response #52:

The permit has been modified to require the development of a Hydraulics Model Calibration and Verification Plan which must be submitted to IDEM for approval. Specific monitoring requirements for 19 outfalls have also been added to the permit with monthly reporting requirements. The permit also requires daily inspections of all of the outfalls to determine whether a discharge has occurred; this information must be submitted monthly.

Comment #53:

The language in Part II.B.2.h pertaining to the monthly report of operation and should be deleted. CSO discharges should be reported only in the discharge monitoring reports.

Response #53:

The language which was originally contained in Part II.B.2.h of the Belmont permit has been deleted in its entirety. Part II.B.2 pertains to bypasses, and the referenced language referred to reporting requirements for combined sewer overflows, which are <u>not</u> bypasses.

Comment #54:

The CSO monitoring requirements should be reasonable by stating that a prediction of a discharge from a CSO point during a storm event creates a rebuttable presumption that the discharge occurred.

Response #54:

Language has been added to Part II.D of Attachment A which allows either IDEM or the permittee to use the data generated by the model to create a rebuttable presumption of compliance or noncompliance with any applicable provision of the permit, upon written IDEM approval of the use of the hydraulics model. However, other evidence may also be used.

Comment Summary #55:

A. Estimation of the frequency and duration of discharges needs to be based on both computer modeling and on observation of actual discharges. Unless the computer model has been verified based on actual observations of the system there is no reason to believe that it is accurate.

B. Quantitative sampling is planned at only four CSO outfalls which are claimed to be representative of the total system. These are to be sampled during only six storm events. In view of the lack of knowledge about the frequency and volume of overflows from most of the CSO outfalls in the system, a much more extensive quantitative sampling program must be required.

Response #55:

IDEM agrees. New language has been added to Part II of Attachment A to require continuous monitoring of 19 overflow points to calibrate and verify the hydraulics model. Additionally the permittee must monitor ALL CSOs on a daily basis to determine whether a discharge has occurred.

Comment Summary #56 (SEA 431/E. Coli Comments):

A. The CSOs should be addressed through the nine minimum controls and the long term control plan (LTCP) as approved by IDEM. Until a LTCP is completed, the City is not in a position to specify a particular control strategy or commit to a specific schedule by which the City's CSOs will be eliminated or controlled. It is absolutely critical that the use attainability analysis under development by the City be considered by IDEM to determine whether the designated uses are attainable for the CSO receiving streams.

B. The preeminent issue posed by the draft Belmont permit is the obligation to comply with water quality-based limitations imposed upon wet weather discharges from overflow points in the City's combined sewer system. The legal effect is to immediately prohibit such CSO discharges since they will not comply with the limitations.

Response #56:

This renewal permit does require the permittee to address its CSOs through implementation of

the minimum controls and development and implementation of the LTCP. The permittee will need to propose its control strategies and time frames for implementation in the LTCP. Assuming a use attainability analysis is conducted and submitted to IDEM, IDEM will consider it in accordance with state and federal law.

All point sources, including combined sewer overflow points, are subject to both technology-based and water quality-based controls. The narrative water quality standards at 327 IAC 2-1-6 are applicable to the overflow points, and IDEM cannot give a compliance schedule for water quality standards that were in effect on July 1, 1977 pursuant to section 301(b)(1)(C) of the Clean Water Act. Absent a variance or compliance schedule, IDEM cannot issue a permit that authorizes violations of water quality standards.

Comment #57:

Attachment A should be revised to incorporate the provisions of SEA # 431 and terms added to define the requirements of a Use Attainability Analysis:

Response #57:

IDEM has reviewed the provisions of SEA 431 and does not see a need to incorporate them into the permit. Sec. 18 of SEA 431 does not contain all of the requirements of a long term control plan, nor does it contain all of the requirements that apply when a temporary suspension of the designated use and associated water quality criteria could occur (and hence when a CSO discharge may occur without causing a violation). To be accurate, IDEM would also have to incorporate the provisions of Secs. 10 and 20 into the discharge authorization section of the permit. Additionally, a permittee is not required by SEA 431 to apply for a suspension. The statute does not require that a discharger's permit be modified before it can apply for a suspension, nor does it require that a modification be issued before the City can be required to conduct a UAA for a stream segment for which it seeks a suspension. Therefore, there is no need to add language to the permit that would merely reiterate what is already stated in statute.

The City suggested that more terms be added to define the requirements of a UAA. IDEM is in the process of establishing those requirements in a guidance document, which will be available to the City as soon as it is finalized.

General CSO Comments

Comment #58:

The privatization of the Belmont and Southport AWTs did away with the cryogenic units for use with ozone disinfection and replaced it with chlorine disinfection. The discontinuation of the use of pure oxygen greatly diminishes AWT capacity with a resultant increase in bypasses and CSO overflows.

Response #58:

The availability and use of the cryogenics unit does not directly affect the plant capacity in terms of accepting additional wet weather flows and the ability to eliminate bypasses from Outfall 007 and the CSOs. The ability of accepting additional flow is limited by the secondary treatment process.

Comment #59:

In Part VI. A of Attachment A of the permit, add "A copy of the LTCP shall be filed at the permittee's main library and another copy shall be made available for the public to copy."

Response #59:

The LTCP is a public document and when submitted shall be on file in the IDEM Central File Room. The request to have a copy of the LTCP on file at the permittee's main library should be made to the permittee.

Comment #60:

The numbering of the CSO outfalls needs to be reviewed with IDEM officials to delete typographical errors.

Response #60:

This comment has been rectified within the issued permit.

Comment #61:

The terms "excessive foam" and "essentially free of floating objects" are used. What is the definition of "excessive" and what is the definition of "essentially free"? These terms are open to interpretation.

Response #61:

These terms have been removed from Attachment A of the issued permit to be consistent with 327 IAC 2-1-6.

Comment #62:

There needs to be a clear definition of dry and wet weather discharges in relations to POTWs and to CSO discharges.

Response #62:

Wet weather flow in a combined sewer system is the amount of storm water that enters the sewer system as a result of a precipitation event. Obviously, the duration of wet weather flow contributions to a combined sewer system is dependent on a number of variables, such as the duration, amount and intensity of the precipitation event. Each CSO community's collection system will respond differently to precipitation events. It is the obligation of each community to characterize its system and reduce the volume and duration of CSO events so that they do not cause or contribute to water quality violations or impact existing or designated uses. Further clarification of the distinction between the definitions of "wet weather" and "dry weather" are currently under review by IDEM. Ultimately, the best determination of wet

weather flow is specific to each combined sewer system and should be addressed in their CSO Operational Plan.

Comment #63:

Replace footnote 5 with a footnote requiring the City of Indianapolis to provide alternate disinfection such that the use of chlorine or other halogen compounds shall be eliminated except during major wet weather events.

Response #63:

The request to require the City of Indianapolis to provide an alternate source of disinfection is not supportable under the current rule in 327 IAC 5-10-6 which allows the use of these compounds. However, the permittee has recently notified IDEM of its intent to install ozonation as their primary method of disinfection for both AWT plants.

Comment #64:

Indiana's CSO Strategy document provides guidance only, nothing binding. Since it does not prohibit permits from addressing specific needs, IDEM could adopt generic language policies for cities of varying size and compliance problems.

Response #64:

IDEM agrees that the state CSO strategy is not binding. However, the federal CSO strategy is. The combined sewer overflow (CSO) language within Attachment A of the NPDES permit renewal (Belmont) is not designed to outline specific conditions or work schedules within a collection system but does provide a framework for municipalities to follow.

Comment #65:

The City objects to the new language contained in Part V.B of Attachment A concerning the City's duty to maximize the transport of wet weather flows to the two AWT plants for treatment.

Response #65:

This is one of the minimum controls required under EPA's 1994 Combined Sewer Overflow Control Policy. This provision is now required in the permit due to HR 828, the federal Wet Weather Water Quality Act of 2000, which requires NPDES permits for CSO discharges issued after the law's enactment date to conform to the federal CSO policy.

Comment #66:

The draft permits require the immediate maximization of flows transported to the WWTP for treatment. Since the City has developed specific means for maximizing treatment of wet weather flows, not only at the Belmont plant but at the Southport plant as well, it is recommended that the operational conditions more specific to these facilities be included in both permits, referencing the submitted operational plan or other available documentation as appropriate.

Response #66:

This comment has been satisfied within the issued permit. The permit now requires that flow be maximized in accordance with the approved CSOOP.

Comment #67:

IDEM should amend Part III of Attachment A as the City has completed over two years of field data along with detailed computer modeling and thence a new protocol and stream reach characterization study is duplicative of existing work and a needless delay of implementation.

Response #67:

The Stream Reach Characterization and Evaluation Report (SRCER), dated March 2000, was submitted to IDEM on September 1, 2000. Part III of Attachment A has been modified to reflect the current status of the SRCER requirement.

Comment #68:

Outfall 018-Boyd Ave. & Cruft St. - Bean Creek and Outfall 222-1200 South Warman-Big Eagle Creek (an inadvertent duplicate of Outfall no. 032) should be deleted from the final CSO inventory list. Outfall 275-4945 S. Foltz-White River should be added.

Response #68:

These revisions have been incorporated within the issued permit.

Comment #69:

The 1999 proposed permit requires that up to 270 MGD have to be pumped through the Belmont AWT before there can be any discharge from Outfall 008. However, the secondary and tertiary peak design capacity is limited to150 MGD. The inflow discrepancy is handled currently by the PE bypass at Outfall 007. Due to the 1999 proposed permit's lack of authorization for bypass from Outfall 007, this places the City in the untenable position of having to violate one provision of its permit in order to comply with its permit's terms and conditions.

Response #69:

The permit requires the plant to be operated in accordance with the CSO Operational Plan submitted in December 1995. This reflects the federal CSO policy requirement to maximize flows.

Comment Summary #70 (Wet-weather Comments Not Pertinent To Attachment A):

A. There are issues involving inflow and infiltration into the sewers that need to be addressed. During wet weather, the Southport plant receives large volumes of water as a result of infiltration due to the high water table in the southern part of Marion County. There is no plan to address this problem and there is concern that no effort will be made to enforce the ban on the connection of down spouts to combined sewers since it is politically unpopular.

B. The Alliance for Democracy is very concerned about the City's priorities in how it spends its money. It can fund a 150-million dollar arena while showing no concern for the elimination of combined sewer overflows.

C. IDEM should consider the following issues when designing the Indianapolis permit: the community's improved financial condition from the 15 million dollar savings annually from privatization of the wastewater treatment plant; and, the commitment of the community to solving the problem.

Response #70:

This practice is encouraged in residential areas, neither Indiana's CSO Strategy or Attachment A of the renewal permit require the elimination of down spouts from combined sewers.

The City's financial resources will be a consideration when IDEM reviews the City's proposed LTCP and timeline for implementation of the plan.

Comment #71:

The proposed cyanide standards would be detrimental to the operation of industrial contributors. The Great Lakes Initiative (GLI), which controls the northern part of the State, calls for amenable cyanide to be the regulated constituent.

Response #71:

The request to maintain the amenable cyanide limit for the term of the permit cannot be granted. The water quality standard for cyanide promulgated in 327 IAC 2-1-6 is not in amenable form and as such cannot be incorporated into NPDES permits outside of the GLI area.

Comment #72:

Efforts have recently been successfully completed to eliminate local regulation limiting total cyanide, except for those industries with a federal categorical limit, following exhaustive research for currently available technologies used to treat total cyanide. This research proved there is no technology currently available to treat industrial users' effluent below the total cyanide limits in the proposed permit. Some discharge at less than a fourth of the categorical limit which is technology-based. There is no need to maintain the proposed limits for total cyanide in the permit due to the excessive cost to meet them.

Response #72:

While industrial users discharge to the collection system of the Belmont AWT, they are not required to meet the end-of-pipe effluent limits as stipulated in the NPDES permit, thus, there may be an overestimation of construction, operation and maintenance costs. Such estimation of cost may only be calculated after Indianapolis, as the Control Authority, notifies the individual stakeholders of the change, if any, in local limits. Additionally the categorical limit was established some time ago and was based on technology available at

that time. Furthermore, there are other means of achieving the more stringent limits that must be considered (such as pollution prevention). The cyanide limit is based on the water quality criteria for cyanide, which are designed to protect public health and the environment and are not based on cost.

Part of the various responsibilities the City of Indianapolis adopts as "Control Authority" is to perform a technical reevaluation of local limits for industrial contributors within a specified period of time as indicated in the NPDES permit and to reissue pretreatment permits as needed. The purpose is to prevent the introduction of pollutants into the AWT which will pass through the treatment works in unacceptable amounts to receiving waters or to municipal sludge in response to newly introduced or previously existing effluent limits that have been revised based on promulgated changes in the State's water quality standards.

The City has submitted a variance application for total cyanide which asks for relief from the water quality-based effluent limitation contained in the permit. The permit contains a schedule of compliance which gives the permittee 3 years to comply with the new limit. In addition the permit contains a reopening clause which allows IDEM to modify the final limit based on the decision of the variance.

Comment #73:

The dissolved oxygen permit limits should be modified as the more stringent ammonia-nitrogen effluent limits will decrease oxygen demand on the White River; thus, the existing dissolved oxygen limits are not necessary to maintain the same level of water quality protection.

Response #73:

Any request to modify dissolved oxygen limits cannot be granted, due to antibacksliding considerations. The new final ammonia-nitrogen limits have been revised since the December 1999 public notice and are not as stringent as what was previously public noticed.

Comment #74:

Total dissolved solids, fluoride, and sulfate limits should be deleted from the draft permits. These criteria are not applicable outside of the Ohio River and interstate Wabash River. These standards were adopted to protect drinking water. The last completed triennial review did not acknowledge the true intent of these criteria, and they are being misapplied.

Response #74:

The request to remove both monitoring and effluent limitations for fluoride, sulfate and TDS based on anticipated changes in 327 IAC 2 cannot be granted. Based on comments received during the first public notice comment period for these permits, these proposed permit requirements were modified to require only reporting of the influent and effluent concentrations for the term of the permit. This effluent data will be subjected to a

determination for reasonable potential to cause an excursion above ambient criteria utilizing effluent data in accordance with the procedure outlined in EPA Document 505/2-90-001, Technical Support Document for Water Quality-based Toxics Control.

During the course of this permit, the City of Indianapolis has the option of submitting sufficient effluent data for examination and requesting modification of the permit to eliminate effluent monitoring. Based on the outcome of this examination, the permit may be modified to remove monitoring requirements for these parameters if the results of the data suggest these parameters will not cause, have the reasonable potential to cause, or contribute to an excursion above a water quality criterion under 327 IAC 2-1.

Conversely, the opposite is true. If the examination shows reasonable potential to exceed the water quality criterion, effluent limits will be placed in the permit with an appropriate schedule of compliance. In addition, certain conditions may be attached to those parameters for which a specific determination has been made to not incorporate effluent limitations and monitoring requirements. Influent monitoring may still be required to ascertain continuing compliance with pretreatment requirements and a reopening clause will stipulate the addition of effluent limits and monitoring requirements to the permit in the event of a substantial increase in influent quantities or if a toxicity reduction evaluation (TRE) determines that one of these parameters is the cause of effluent toxicity.

Comment #75:

The effects of chlorination are a detriment to the environment. UV disinfection is no more expensive. Indianapolis should be required to install UV disinfection.

Response #75:

At this time, this request is not supportable based on 327 IAC 5-10-6, which provides for the use of chlorine compounds for disinfection. The permittee has recently informed IDEM of its intent to change the primary method of disinfection to ozonation at both AWT plants. This change is expected to be completed within 3 years of the effective date of the permits.

Comment #76:

The proposed permit does not include mercury as a parameter in the collection of data on major industrial users.

Response #76:

The concept that the draft permit did not require data collection for mercury is a misconception. Additional wording has been included in Part III.B of the permit to specify that the pollutant loading study is required to identify sources of mercury within the entire collection system. In addition, Part III.B.1 indicates industrial contribution as one of the four potential sources the POTW should evaluate. The additional statement regarding sampling at universities, hospitals and other related facilities does not preclude the requirement to identify industrial sources.

Comment #77:

Chlorination requires dechlorination. The dechlorinating agents also remove oxygen from the discharge.

Response #77:

The use of dechlorinating agents can have a negative impact on the amount of dissolved oxygen available downstream of the plant outfall. In recognition of this, IDEM has incorporated standard language into all NPDES permits utilizing chlorine, or other halogens, requiring re-evaluation of chlorination/dechlorination practices when measured effluent concentrations of chlorine are above the water quality-based effluent limits and the detectability limit for chlorine. This helps to limit the amount of chlorine utilized while maintaining an adequate bacterial kill, thus limiting the amount of dechlorinating agents utilized. The permittee has recently informed IDEM of its intent to change the primary method of disinfection to ozonation at both AWT plants. This change is expected to be completed within 3 years of the effective date of the permits.

Comment #78:

In Table 2, remove all reference to footnote 5. This will result in requiring year-round disinfection which will yield more adequate protection of human health and the environment.

Response #78:

The request to modify existing language in footnote number 5 from Table 2 of the permit to require year-round disinfection cannot be granted. The request is not consistent with 327 IAC 2-1-6(d), which only requires compliance with the bacteriological criteria during the recreational season of April 1 through October 31, annually.

Comment #79:

The reduction in *E. coli* in the AWT plant effluents is desirable. However, the operator should be given some reasonable period of time to make the necessary operational changes to achieve the reduced counts.

Response #79:

A 36-month compliance schedule has been granted to allow the City of Indianapolis to comply with the new *E. coli* limits. This time period was extended from the original three-month grace period which was in the draft permit renewal, based upon the fact that the permittee has submitted a preliminary engineering report to the SRF Section for a loan to fund the new disinfection system. The permittee has stated that construction of the new system will be needed to meet the new *E. coli* limits.

Comment #80:

Until the amount of mercury in sewage is accurately determined, sampling should be required weekly and not just monthly.

Response #80:

With the incorporation of EPA method 1631: Mercury in Water by Oxidation, Purge and Trap, and Cold Vapor Atomic Fluorescence into 40 CFR Part 136, it is now possible to measure mercury in the effluent accurately. However due to the costs of testing, the monitoring frequency has been established at once quarterly.

Comment #81:

The grab sample for *E. coli* should not only be shielded from light but the residual chlorine should be neutralized, the sample stored on ice and analyzed within the prescribed time. All sampling and analytical procedures should refer to EPA approved procedures or other recognized standard methods.

Response #81:

The reference to shielding the *E. coli* grab sample from light has been deleted from the permit. This reference is only appropriate for those dischargers utilizing UV light disinfection. Part I.B.5 of the permit requires the discharger to utilize test procedures identified in 40 CFR 136 for all pollutants or parameters listed in that part, unless an alternative test procedure has been approved under 40 CFR 136.5. With reference to *E. coli*, IDEM has approved several new methods which are set forth in Footnote [5] under Table 2 in Part I.A.2 of the permit.

Comment #82:

Ammonia limits should be based on the EPA's new ammonia criteria published on December 22, 1999.

Response #82:

This request has been granted.

Comment #83:

The $CBOD_5$ and TSS limits should be raised consistent with the concurrent lowering of the ammonia limits so as to provide for the same projected instream dissolved oxygen as under current permit conditions. It is our understanding that similar adjustments in permit limitations have been approved in similar contexts for other communities.

Response #83:

The $CBOD_5$ limits in the permit are derived directly from the wasteload allocation study, so the permittee is not entitled to a higher limit. Additionally antibacksliding prevents the TSS limits from being raised in the City's case. Therefore IDEM cannot grant the request for less stringent effluent limits for $CBOD_5$ and TSS.

Comment #84:

Permit limits should be developed based on low flow conditions derived on a monthly basis as outlined in SEA 431 section 22 (IC 13-18-19-2).

Response #84:

IC 13-18-19-2 gives IDEM the discretion to issue a permit which contains alternate effluent limits based on the conditions in Section 22. IDEM is currently evaluating the consequences of deriving proposed effluent limits on the basis of monthly $Q_{7,10}$ low flow values.

Comment #85:

The percent removal of $CBOD_5$ and TSS should be revised pursuant to 40 CFR 133.103(a) to maximize the effectiveness of the AWT during wet weather.

Response #85:

As explained in the fact sheets for the NPDES permits for the Belmont & Southport AWTs, the permittee may gather information relating to the collection of wet weather flow data and percent removal rates. 40 CFR 133.103(a) requires a case-by-case decision basis to be employed in ascertaining whether an attainable percent removal level can be defined. The collection of this data is paramount to this ongoing process as the City improves its collection and transport system as well as the AWT treatment facilities. Until sufficient effluent data is generated and submitted to IDEM for approval, this request cannot be accommodated.

Comment #86:

Mass limits should be dropped pursuant to 327 IAC 5-2-11(e)(3) in order to maximize the effectiveness of the AWT during wet weather.

Response #86:

IDEM has determined that this it is not appropriate to delete mass limits. The following rationale explains the primary basis for this decision as well as some other supporting arguments.

The imposition of mass limits is consistent with the past approach utilized with other CSO communities, thus, the City of Indianapolis cannot be granted an exception not so granted to the other communities. In addition, the City has already been granted some wet weather relief by utilizing the peak design flow for the calculation of the mass limits in the Belmont permit.

Primarily though, the City is requesting effluent limits, based on SEA 431, to be calculated for variable stream flows to obtain higher limits based on increased receiving stream dilution during a calendar year. In consideration of this, normally, more flow through the treatment plant can be facilitated both by higher concentration limits and through a lack of needing to comply with mass limits. 327 IAC 5-2-11(e)(3) prohibits dilution-based substitutions for full biological treatment in the consideration of inclusion of mass limits.

Comment #87:

Evaluation of chlorination/dechlorination practices should be deleted if below the Level of Quantitation (LOQ). The City requests that the language correctly track rule language. The City requests the permit limit be set at the LOQ for chlorine which is 0.06 mg/l.

Response #87:

Conditions in 327 IAC 5-2-11.1 require the establishment of water quality-based effluent limitations (WQBEL) in the discharge permit regardless of the ability of analytical procedures to detect the substance at the level of the permit limit.

The request to delete the language in the permit dealing with LOD & LOQ is denied. The language utilized is directly incorporated from 327 IAC 5-2-11.1(f)(2)(A)&(B). The permit language has been crafted to comply with these requirements and as such it is not possible to delete it from the City of Indianapolis' NPDES permits ahead of and/or in anticipation of proposed rule changes. The request to modify the existing permit language to more correctly track the exact wording in the rule, however, has been granted and incorporated into the City's NPDES permits.

Comment #88:

The cadmium limit should not be included in the Southport AWT NPDES permit. Reasonable potential calculations to cause an excursion above ambient criteria utilizing effluent data indicate that cadmium should not be included for Outfall 001.

Response #88:

Effluent data for cadmium was examined by IDEM and found to have a projected maximum receiving water concentration greater than the ambient criterion, thus cadmium was included for Southport.

Comment #89:

There has been an improper interpretation of "deleterious" in Water Quality-based CSO permit conditions. Rulemaking procedures have not been used to properly establish IDEM's interpretative proposal.

Response #89:

The language proposing to define "deleterious" has been deleted from the permits.

Comment #90:

The total residual chlorine (TRC) effluent limits in Table 2 are new. Such stringent TRC limits were not imposed in the 1985 Permits and it is requested that the interim daily maximum limit of 1.0 mg/l be substituted for the proposed limits in Table 2. Such interim limitations are appropriate and provided for in 327 IAC 5–2-12(a). Compliance with the proposed final TRC daily limit would require modifications to operational procedures, chemical dosage and disinfection equipment and tankage. The City of Indianapolis would require time to construct such new facilities.

Response #90:

A twelve (12) month schedule of compliance has been granted for residual chlorine requirements. During this interim 12-month period after the effective date of the permit, the permittee is required to comply with the daily maximum effluent limit of 1.0 mg/l for total residual chlorine as measured at the end of the chlorine contact tank. Also during this period the permittee is required to dechlorinate the effluent to the best of its abilities. After the interim period, the permittee shall comply with the final effluent limitations for total residual chlorine contained under Part I.A.1., Table 2.

Comment #91:

No interim or final effluent limits or monitoring for mercury are necessary.

Response #91:

Any request to remove mercury effluent limits and monitoring requirements based on submitted fish tissue analysis cannot be granted. For risks to human health, IDEM is currently looking at fish tissue data for contamination by Mercury (inorganic & organic) based on its Reference Dose (RfD) value of 0.3 mg/kg and not the FDA Action levels (1ppm or 0.5 ppm) for issuance of Fish Consumption Advisories.

The submitted study indicated a mercury concentration of 0.59 mg/kg in Largemouth Bass (whole fish) which is almost twice the RfD and would be of concern to human health.

Comment #92:

There should be no final effluent limits for metals, except copper, and non-metals, except cyanide, in the permit. Extensive studies of the White River indicate that water quality standards are being met for copper, cadmium, cyanide, lead, mercury, nickel, zinc, chloride, sulfate and arsenic. Control of these parameters in the effluent of the City's wastewater facilities is therefore unwarranted.

Response #92:

The permittee has the freedom at any time to submit a request for a review of the effluent monitoring data once a statistically significant data set has been accumulated. The permit may be modified to remove monitoring requirements for any of the above parameters that will not be discharged at a level that will cause, have the reasonable potential to cause, or contribute to an excursion above a water quality criterion in 327 IAC 2-1. Conversely, effluent limitations and monitoring requirements and a suitable schedule of compliance, if needed, may be added for any parameter found to be capable of reasonable potential to cause or contribute to an excursion above the water quality criterion for that parameter. Additional parameters may be added to a draft permit for initial monitoring if the City may discharge them at a level that will cause, have the reasonable potential to cause, or contribute to an excursion above a water quality criterion contained in 327 IAC 2-1-6.

All metals currently limited in the permit issued September 30, 1985 were subjected to a

determination for reasonable potential to cause an excursion above ambient criteria utilizing effluent data in accordance with the procedure outlined in EPA Document 505/2-90-001, Technical Support Document for Water Quality-based Toxics Control. Outliers were examined in accordance with procedures outlined in Barnett, V. and Lewis, T. (1993) Outliers in Statistical Data, 3rd Edition and EPA Document 530-R93-003, Statistical Training Course for Ground-water Monitoring Data Analysis. Influent monitoring will still be required to ascertain continuing compliance with pretreatment requirements. A reopening clause will provide for the addition of effluent limits and monitoring requirements to the permit in the event of a substantial increase in influent quantities or if a Toxicity Identification Evaluation (TIE) determines a particular pollutant as the cause of effluent toxicity.

For the purposes of enforcing and maintaining adequate legal authority in the permittee's Sewer Use Ordinance, the Control Authority shall still develop and maintain local limits for all metals no longer monitored in the effluent in its technical reevaluation of the local limits.

Comment #93:

The permit should establish concentration limits for the Belmont AWT of 45 mg/l during wet weather events for both TSS and $CBOD_5$ consistent with the directive that the permittee maximize flow to and through the AWTs during wet weather events. Such wet weather concentration limits would be consistent with the secondary treatment requirements defined by IDEM and EPA regulations.

Response #93:

The request to establish concentration limits for the Belmont AWT of 45 mg/l during wet weather events for both $CBOD_5$ and TSS is not consistent with the secondary treatment requirements. Such wet weather requests have been found to be inconsistent with the definition of secondary treatment as defined by EPA.

The minimum level of effluent quality attainable by secondary treatment is defined in 40 CFR 133.102(a)(4)(i) & 40 CFR 133.102(b) which have been promulgated in 327 IAC 5-5-3(a). By definition, the 30-day average shall not exceed 25 mg/l for $CBOD_5$ and 30 mg/l for TSS. The reference to 45 mg/l as treatment equivalent to secondary treatment as defined in 40 CFR 133.105 can only be granted for trickling filter facilities and /or waste stabilization ponds. The actual alternative limit would have to conform to the BOD_5 and TSS effluent concentrations consistently achievable through proper operation and maintenance by the median (50th percentile) facility in a representative sample of facilities within a state or appropriate contiguous geographical area that meet the definition of facilities eligible for treatment equivalent to secondary treatment. While variable concentration limits may enable the AWT facilities to increase load reduction during wet weather, the current rules do not allow for it.

Comment #94:

IDEM has set the limitations for certain parameters (TRC, mercury and cyanide) at levels below any capability of measuring them. Establishing permit limitations at levels below which they can be detected and measured is arbitrary and capricious action and otherwise not in accordance with applicable law.

Response #94:

Conditions in 327 IAC 5-2-11.1 require the establishment of water quality-based effluent limitations (WQBEL) in the discharge permit. Thus such action is in accordance with the law and is not arbitrary or capricious. However the permittee will be considered in compliance with the permit if all of its samples in a 30-day period are below the limit of quantitation.

IV. VARIANCE COMMENTS

Comment #95:

IDEM should grant the variance application and maintain the current mercury limits. The proposed final limit is unachievable because there are no proven wastewater technologies to achieve the limits. Under Triennial review, IDEM is proposing a statewide variance for mercury based on the excessive costs associated with removal.

Response #95:

Conditions in 327 IAC 5-2-11.1 require the establishment of water quality-based effluent limitations (WQBEL) in the discharge permit. The requirement to measure and report certain parameters is contained in the current rule at 327 IAC 5-2-11.1(d) and 327 IAC 2-1-6(a)(3) and as such, specific language in the permit relating to these rule cites cannot be modified ahead of anticipated and/or proposed changes that may be presented in the triennial review of the water quality standards. State and federal law require that IDEM issue the permits consistent with regulations in effect at the time of permit issuance.

IDEM is reviewing the variance application for mercury submitted by the City. However, IDEM notes that end-of-pipe treatment technology is not the only means of complying with the permit limitations. Pollution prevention and reduction of contributions from industrial users also need to be considered.

Comment #96:

Cyanide limits should continue to be based on amenable cyanide testing rather than as total cyanide. A variance for total cyanide should be issued in the interim. The cyanide limit in the Indianapolis Sewer Use Ordinance (SUO) is 0.4 mg/l as amenable cyanide that was approved in the fall of 1996 by both the U.S. EPA and IDEM. Additional reductions are not possible as there are no proven removal technologies for complex cyanide that are financially feasible.

Response #96:

The limit in this renewal permit is based on the study submitted by the City for site-specific water quality criteria for cyanide. The result of this study was a less stringent criteria for cyanide which in turn resulted in less stringent cyanide limits for the City. This represented a net increase of about 105% for the chronic water quality criteria. The request to maintain the cyanide effluent limit at 0.027 mg/l daily maximum as amenable cyanide cannot be granted for several reasons. First, the water quality standard for cyanide promulgated in 327 IAC 2-1-6 is not in amenable form and as such cannot be incorporated into NPDES permits outside of the GLI rule area. State and federal law require that IDEM issue the permits consistent with regulations in effect at the time of permit issuance.

However, IDEM is reviewing the variance application for total cyanide submitted by the City. Depending on the outcome of this review, the final limit of total cyanide may stay the same or become less stringent.

Again, end-of-pipe treatment technology is not the only means of complying with the permit limitations. Finally, any approval of the cyanide limit in the City's SUO was based on the cyanide limit in the1985 permit, not the limit in this renewal permit, which is more stringent.

Comment #97:

The draft permit proposes to include conditions describing the effect on the proposed permit of the City's request for relief from water quality standards during wet weather conditions. The City pointed out that the proposed condition inappropriately describes the scenario in which the permits were to be issued prior to a variance decision.

Response #97:

The referenced language has been removed from the issued permits.

Comment #98:

The City of Indianapolis' 1999 variance request must be acted upon before IDEM issues the proposed permits as final permits.

Response #98:

IDEM is currently reviewing the supplement to the June, 1999 CSO variance Application submitted by the City to determine whether it complies with the State's variance rules (327 IAC 2-1-8.8 and 327 IAC 5-3-4.1).